IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 **Patent Application**

Applicant(s):	Ping-Wen Ong
Case:	11
Serial No.:	09/201,749
Filing Date:	December 1, 1998
Group:	3694
Examiner:	Ella Colbert
Title:	Method and Apparatus for Resolving Domain Names of Persistent Web Resources

20 <u>CORRECTED APPEAL BRIEF</u>

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
25 Alexandria, VA 22313-1450

Sir:

Appellants hereby submit this Corrected Appeal Brief in response to the
30 Notification of Non-Compliant Appeal Brief dated February 7, 2008. The original Appeal Brief
was submitted on June 25, 2007 to appeal the non-final rejection dated March 23, 2007, of
claims 1 through 28 of the above-identified patent application. Appellant also notes that the
Examiner has failed to cite the Amstein patent (United States Patent No. 5,793,966) in the Notice
of References Cited (Form PTO-892).

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<u>REAL PARTY IN INTEREST</u>

The present application is assigned to Lucent Technologies Inc., as evidenced by
an assignment recorded on February 25, 1999 in the United States Patent and Trademark Office
at Reel 9805, Frame 0561. The assignee, Lucent Technologies Inc., is the real party in interest.

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RELATED APPEALS AND INTERFERENCES

A Notice of Appeal was filed on June 12, 2002 in related United States Patent Application Serial No. 09/201,751 (Attorney Docket No. Ong 9) and an Appeal Brief was filed on October 21, 2002. An Examiner's Answer was issued on January 14, 2003 and a Reply Brief

5 was filed on March 14, 2003. The patent application was abandoned on October 5, 2004.

A Notice of Appeal was filed on January 24, 2002 in related United States Patent Application Serial No. 09/201,752 (Attorney Docket No. Ong 8) and an Appeal Brief was mailed on April 29, 2002. A new Office Action was mailed by the Examiner on August 1, 2002 in response to the Appeal Brief. A second Notice of Appeal was filed on March 12, 2003 in that

10 related application and an Appeal Brief was submitted on May 19, 2003. An Examiner's Answer was mailed on July 11, 2003 and a Reply Brief was submitted on September 9, 2003. The patent application was returned to the Examiner on October 25, 2003. A Decision on Appeal was mailed on October 26, 2004. A continuation patent application was filed on December 16, 2004 (United States Patent Application Number 11/014,342).

15 A Notice of Appeal was also filed on March 12, 2003 in related United States Patent Application Serial No. 09/342,408 (Attorney Docket No. Ong 12) and an Appeal Brief was submitted on May 19, 2003. A new Office Action was mailed on July 30, 2003, a Request to Re-instate the Appeal and a Supplemental Appeal Brief was submitted on October 30, 2003, and a Reply Brief was submitted on March 29, 2004. A Decision on Appeal was mailed on

20 February 22, 2005. An Amendment and RCE was submitted on April 22, 2005, a PreAppeal Brief was submitted on April 11, 2006, and the rejection was withdrawn on May 10, 2006. A Notice of Allowance was mailed on June 7, 2006 and the patent issued on October 10, 2006 as United States Patent Number 7,120,862 B1. A continuation patent application was filed on August 18, 2006 (United States Patent Application Number 11/506,534).

25 A Notice of Appeal was also filed on March 12, 2003 in related United States Patent Application Serial No. 10/099,121 (Attorney Docket No. Ong 15) and an Appeal Brief was submitted on May 19, 2003. An Examiner's answer was mailed on July 11, 2003 and a Reply Brief was submitted on September 9, 2003. A Decision on Appeal was mailed on July 21, 2005. A Notice of Abandonment was mailed on November 10, 2005.

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STATUS OF CLAIMS

Claims 1 through 28 are presently pending in the above-identified patent application. Claims 1, 6, 8, 12, 15, 16, 20, 22, 26, and 28 remain rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

5   subject matter that applicant regards as the invention. Claims 1-3, 5-7, 9, 10, 12-16, 18, 20-24, and 26-28 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Amstein et al (United States Patent No. 5,793,966; hereinafter Amstein), and claim 8 remains rejected under 35 U.S.C. §103(a) as being unpatentable over Kanfi (United States Patent No. 5,559,991) in view of Amstein. Claims 1, 5, 8, 13, 15, 16, 22, and 28 are being appealed.

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STATUS OF AMENDMENTS

There have been no amendments filed subsequent to the non-final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

15   Independent claim 1 is directed to a method for providing an electronic document, the electronic document having multiple versions, each of the versions identified by a creation time-stamp indicating a creation time of the corresponding version (page 4, line 6, to page 5, line 25), the method comprising the steps of: receiving a request for the electronic document, the request including a requested time-stamp indicating a time associated with a desired version of the request including a requested time-stamp indicating a time associated with a desired version of

20   the electronic document and a requested domain name associated with the time-stamp (page 6, line 5, to page 7, line 17; page 9, line 20, to page 11, line 11); identifying as a function of the creation time-stamp and the requested time-stamp a desired version of the electronic document having a creation time corresponding to the requested time-stamp (page 7, lines 1-11); and identifying an address of the desired version of the electronic document stored on a server

25   corresponding to the requested time-stamp as a function of the requested time-stamp and the requested domain name, wherein a server identified by the requested domain name does not provide the desired version at a time of the request and the identified server has a redirected domain name that is different than the requested domain name (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS 5A and 5B)

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Independent claim 8 is directed to a system (FIG. 1) for storing an electronic document having multiple versions, each of the versions identified by a creation time-stamp indicating a creation time of the corresponding version, the system comprising: a memory for storing the multiple versions of the electronic document in an archive of electronic documents;

5   and a processor operatively coupled to the memory, the processor configured to: receive a request for the electronic document, the request including a requested domain name and a requested time-stamp indicating a time associated with a desired version of the electronic document (page 6, line 5, to page 7, line 17; page 9, line 20, to page 11, line 11); identify as a function of the creation time-stamp and the requested time-stamp a desired version of the

10   electronic document having a creation time corresponding to the requested time-stamp (page 7, lines 1-11); and identify an address of the desired version of the electronic document corresponding to the requested time-stamp as a function of the requested time-stamp and the requested domain name, wherein a server identified by the requested domain name does not provide the desired version at a time of the request and the identified address has a redirected

15   domain name that is different than the requested domain name (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS. 5A and 5B).

Independent claim 15 is directed to an article of manufacture for accessing an electronic document, the electronic document having multiple versions, each of the versions being identified by a creation time-stamp indicating a creation time of the corresponding version,

20   the article of manufacture comprising: a computer readable medium having computer readable program code means embodied thereon, the computer readable program code means comprising program code means for causing a computer to: receive a request for the electronic document, the request including a requested domain name and a requested time-stamp indicating a time associated with a desired version of the electronic document (page 6, line 5, to page 7, line 17;

25   page 9, line 20, to page 11, line 11); identify as a function of the creation time-stamp and the requested time-stamp a desired version of the electronic document having a creation time corresponding to the requested time-stamp (page 7, lines 1-11); and identify an address of the desired version of the electronic document corresponding to the requested time-stamp as a function of the requested time-stamp and the requested domain name, wherein a server identified

30   by the requested domain name does not provide the desired version at a time of the request and

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the identified address has a redirected domain name that is different than the requested domain name (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS. 5A and 5B)

Independent claim 16 is directed to a method for resolving a requested domain name is disclosed, the method comprising the steps of: receiving a request for an electronic document associated with the requested domain name, the electronic document having multiple versions, each of the versions being identified by a creation time-stamp indicating a creation time of the corresponding version (page 4, line 6, to page 5, line 25), the request including a requested time-stamp indicating a time associated with a desired version of the electronic document (page 6, line 5, to page 7, line 17; page 9, line 20, to page 11, line 11); identifying as a function of the creation time-stamp and the requested time-stamp a machine corresponding to a version of the requested domain name for a time period corresponding to the requested time-stamp, wherein a machine identified by the requested domain name does not provide the desired version at a time of the request and the identified machine has a redirected domain name that is different than the requested domain name; and transmitting an indication of the identified machine storing the electronic document corresponding to the requested time-stamp (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS. 5A and 5B).

Independent claim 22 is directed to a system (FIG. 1) for resolving a requested domain name, the system comprising: a memory for storing a database identifying a machine storing an electronic document corresponding to the requested domain name for a plurality of time periods; and a processor operatively coupled to the memory, the processor configured to: receive a request for an electronic document associated with the requested domain name, the electronic document having multiple versions, each of the versions being identified by a creation time-stamp indicating a creation time of the corresponding version (page 4, line 6, to page 5, line 25), the request including a requested time-stamp indicating a time associated with a desired version of the electronic document (page 6, line 5, to page 7, line 17; page 9, line 20, to page 11, line 11); access the database as a function of the creation time-stamp and the requested time-stamp to identify a machine corresponding to a version of the domain name for a time period corresponding to the requested time-stamp, wherein a machine identified by the requested domain name does not provide the desired version at a time of the request and the identified machine has a redirected domain name that is different than the requested domain name; and

transmit an indication of the identified machine storing the electronic document corresponding to the requested time-stamp (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS. 5A and 5B).

Claims 5 and 13 are directed to an exemplary method that further comprises the
5   step of transmitting the version of the electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of the electronic document does not exist with the requested time-stamp (page 7, lines 1-11).

Independent claim 28 is directed to an article of manufacture for resolving a requested domain name, the article of manufacture comprising: a computer readable medium
10   having computer readable program code means embodied thereon, the computer readable program code means comprising program code means for causing a computer to: receive a request for an electronic document associated with the requested domain name, the electronic document having multiple versions, each of the versions being identified by a creation time-stamp indicating a creation time of the corresponding version (page 4, line 6, to page 5, line 25),
15   the request including a requested time-stamp indicating a time associated with a desired version of the electronic document (page 6, line 5, to page 7, line 17; page 9, line 20, to page 11, line 11); identify as a function of the requested time-stamp a server corresponding to a version of the domain name, wherein the version of the domain name is associated with a time period corresponding to the requested time-stamp, wherein a machine identified by the requested
20   domain name does not provide the desired version at a time of the request and the identified machine has a redirected domain name that is different than the requested domain name; identify a server associated with the domain name as a function of the requested time-stamp; transmit an indication of the identified machine storing the electronic document corresponding to the time-stamp (page 7, lines 1-11; page 10, line 11, to page 11, line 11; FIGS. 5A and 5B).
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STATEMENT OF GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 6, 8, 12, 15, 16, 20, 22, 26, and 28 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Claims 1, 5, 13, 15, 16, 22, and 28 are
30   rejected under 35 U.S.C. §103(a) as being unpatentable over Amstein.

ARGUMENTS

Drawings

The drawings are objected to because FIG. 2 is not within the margin guidelines and FIGS. 2 and 6 are informal drawings.

5   Appellant proposes to submit formal drawings that address the Examiner's concerns upon resolution of the appeal.

Section 112 Rejections

Claims 1, 6, 8, 12, 15, 16, 20, 22, 26, and 28 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

10   subject matter that applicant regards as the invention. Regarding claim 1 (and claims 15, 16, 22, and 28), the Examiner asserts that there is insufficient antecedent basis for the limitation "a time." Regarding claim 8 (and claims 15, 16, 22, and 28), the Examiner asserts that there is insufficient antecedent basis for the limitations "a time" and "a desired version." Regarding claim 6, the Examiner asserts that the limitation "request is specified using a browser" is vague

15   and unclear (as to) what "request is specified using a browser."

Regarding the antecedent basis rejections, Appellant notes that the cited limitations "a time" and "a desired version" are introducing the terms in the claims for the first time and thus cannot lack antecedent basis. Appellant also notes that all instances of the terms "a time" refer to different times (although the times may have equal value), and that the instances of

20   the terms "a desired version" refer to different desired versions (although one or more of the instances of a desired version may identify the same document).

Regarding the Examiner's assertion that the cited limitation ("request is specified using a browser") is vague and unclear, Appellant notes that there is only one instance of a request recited in claim 1, i.e. "a request for said electronic document," and thus the cited term is

25   clear. The terms suggested by the Examiner, i.e., "requested timestamp" and "requested version," refer to a timestamp and version, respectively, and *not* to a "request."

Appellant respectfully requests withdrawal of the rejections under 35 U.S.C. §112, second paragraph

Independent Claims

Independent claims 1, 15, 16, 22, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Amstein, and independent claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kanfi in view of Amstein. With regard to claim 1, for

5 example, the Examiner asserts that Amstein teaches all of the limitations (except that "the server is identified by the requested domain name" recited by claim 1). In particular, the Examiner asserts that Amstein discloses receiving a request for the electronic document, the request including a requested time-stamp indicating a time associated with a desired version of the electronic document and a requested domain name associated with said time-stamp (col. 19, lines

10 45-65); identifying as a function of said creation time-stamp and said requested time-stamp a desired version of said electronic document having a creation time corresponding to said requested time-stamp (col. 19, line 57, to col. 20, line 23); and identifying an address of said desired version of said electronic document stored on a server corresponding to the requested time-stamp as a function of said requested time-stamp and said requested domain name (col. 18,

15 line 65, to col. 20, line 42; FIGS. 6A-6C), wherein a server identified by the requested domain name does not provide said desired version at a time of said request and said identified server has a redirected domain name that is different than said requested domain name (col. 24, lines 32-60; FIGS. 9 and 10).

First, Appellant notes that, in the text cited by the Examiner, Amstein teaches

20 about the "attributes stored with the web meta information." (Col. 19, lines 45-65.) Appellant also notes that the cited web meta information is stored (col. 17, lines 55-col. 18, line 9) and updated (col. 24, lines 25-60). Amstein does *not*, however, disclose or suggest that the request includes a *requested* time-stamp *indicating a time* associated with a desired version of the electronic document or a *requested domain name associated with said time-stamp*.

25 Second, Amstein's disclosure regarding the "attributes stored with the web meta information" (col. 19, line 57, to col. 20, line 23) does *not* disclose or suggest identifying *as a function of said creation time-stamp and said requested time-stamp* a desired version of said electronic document *having a creation time corresponding to said requested time-stamp*, and does *not* disclose or suggest identifying an address of said desired version of said electronic

30 document stored on a server *corresponding to the requested time-stamp as a function of said*

requested time-stamp and said requested domain name.

Finally, Appellant notes that the present invention provides a persistent domain name server that allows a user to refer to historical Web resources, for example, following a corporate merger or domain name change. If company A is merged into company B, all the web pages referred through "www.A.com" may no longer be valid. The disclosed persistent domain name server utilizes the dated URL to determine where the historical information of company A is located for the requested time period and translates the request to a new machine containing the historical information of company A. See, Summary, final paragraph, and page 9, line 20, to page 11, line 11.

Amstein does **not** address the situation of redirecting a request containing a *requested time stamp* to a new domain, when the requested domain name no longer exists. Each of the independent claims emphasize that "a server identified by said requested domain name does not provide said desired version at a time of said request and said identified server has a redirected domain name that is different than said requested domain name." In fact, no suggestion can be found in Amstein of redirecting a first requested domain www.A.com to a new domain name www.B.com.

As discussed in the specification on page 10, if company A is now part of company B (for example, following a merger), and a user requests the following URL, "http://www.A.com?time=2+2+1992," the "server identified by said requested domain name does not provide said desired version at a time of said request." Thus, the request will be redirected to "123.2.3.222 redirect" (associated with company B), such that the "identified server has a redirected domain name that is different than said requested domain name."

In the text cited by the Examiner, Amstein teaches that "the document *meta information file is updated.*" (Col. 24, lines 32-60; emphasis added.) Appellant could find *no* disclosure or suggestion by Amstein that *the **requested** domain name is different than the domain name of the identified server*, or **receiving a request** for an electronic document, and *identifying an address or machine of a desired version of said electronic document stored on a server **corresponding to the requested time-stamp*** (as a function of said requested time-stamp and said requested domain name), *wherein the identified server has a **redirected domain name** that is different than the **requested domain name**.*

Thus, Amstein does not disclose or suggest that "a server identified by said requested domain name does not provide said desired version at a time of said request and said identified server has a redirected domain name that is different than said requested domain name," as required by each of the independent claims, does not disclose or suggest receiving a

5   request for said electronic document, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document and a requested domain name associated with said time-stamp; identifying as a function of said creation time-stamp and said requested time-stamp a desired version of said electronic document having a creation time corresponding to said requested time-stamp; and identifying an address of said desired version of

10 said electronic document stored on a server corresponding to said requested time-stamp as a function of said requested time-stamp and said requested domain name, wherein a server identified by said requested domain name does not provide said desired version at a time of said request and said identified server has a redirected domain name that is different than said requested domain name, as required by independent claims 1, 8, and 15, and does not disclose or

15 suggest receiving a request for an electronic document associated with said requested domain name, said electronic document having multiple versions, each of said versions being identified by a creation time-stamp indicating a creation time of said corresponding version, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document; identifying as a function of said creation time-stamp and said requested

20 time-stamp a machine corresponding to a version of said requested domain name for a time period corresponding to said requested time-stamp, wherein a machine identified by said requested domain name does not provide said desired version at a time of said request and said identified machine has a redirected domain name that is different than said requested domain name; and transmitting an indication of said identified machine storing said electronic document

25 corresponding to said requested time-stamp, as required by independent claim 16, 22, and 28

Appellant thus respectfully requests the withdrawal of the rejection under Section

103.

Claims 5 and 13

Claims 5 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over

30 Amstein. With regard to claims 5 and 13, the Examiner asserts that Amstein discloses

transmitting the version of said electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of the electronic document does not exist with the requested time-stamp (col. 17, line 55, to col. 18, line 16).
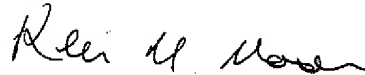
As noted above, Amstein does *not* disclose or suggest requests containing time-stamps, and Appellant could find *no* disclosure or suggestion in Amstein of transmitting the version of said electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of the electronic document does not exist with the requested time-stamp.

Thus, Amstein does not disclose or suggest transmitting the version of said electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of the electronic document does not exist with the requested time-stamp, as required by claim 5 and 13.

Conclusion

The rejections of the cited claims under section 103 in view of Amstein and Kanfi, alone or in any combination, are therefore believed to be improper and should be withdrawn. The remaining rejected dependent claims are believed allowable for at least the reasons identified above with respect to the independent claims.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,

Date: March 7, 2008

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APPENDIX

1. A method for providing an electronic document, said electronic document having multiple versions, each of said versions identified by a creation time-stamp indicating a creation time of said corresponding version, said method comprising the steps of:

receiving a request for said electronic document, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document and a requested domain name associated with said time-stamp;

identifying as a function of said creation time-stamp and said requested time-stamp a desired version of said electronic document having a creation time corresponding to said requested time-stamp; and

identifying an address of said desired version of said electronic document stored on a server corresponding to said requested time-stamp as a function of said requested time-stamp and said requested domain name, wherein a server identified by said requested domain name does not provide said desired version at a time of said request and said identified server has a redirected domain name that is different than said requested domain name

2. The method according to claim 1, wherein an address identifying said electronic document includes said creation time-stamp.

3. The method according to claim 2, wherein said address is a Uniform Resource Locator ("URL").

4. The method according to claim 3, wherein said Uniform Resource Locator ("URL") has an associated request header for indicating said requested time-stamp.

5. The method according to claim 1, further comprising the step of transmitting the version of said electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of said electronic document does not exist with the requested time-stamp.

6. The method according to claim 1, wherein said request is specified using a browser

7. The method according to claim 1, wherein said requested time-stamp is a relative time-stamp.

8. A system for storing an electronic document having multiple versions, each of said versions identified by a creation time-stamp indicating a creation time of said corresponding version, said system comprising:

a memory for storing said multiple versions of said electronic document in an archive of electronic documents; and

a processor operatively coupled to said memory, said processor configured to:

receive a request for said electronic document, said request including a requested domain name and a requested time-stamp indicating a time associated with a desired version of said electronic document;

identify as a function of said creation time-stamp and said requested time-stamp a desired version of said electronic document having a creation time corresponding to said requested time-stamp; and

identify an address of said desired version of said electronic document corresponding to said requested time-stamp as a function of said requested time-stamp and said requested domain name, wherein a server identified by said requested domain name does not provide said desired version at a time of said request and said identified address has a redirected domain name that is different than said requested domain name.

9. The system according to claim 8, wherein an address identifying said electronic document includes said creation time-stamp.

10. The system according to claim 9, wherein said address is a Uniform Resource Locator ("URL").

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11.   The system according to claim 10, wherein said Uniform Resource Locator ("URL") has an associated request header for indicating said requested time-stamp.

12.   The system according to claim 8, wherein said request is specified using a browser.

13.   The system according to claim 8, wherein said processor is further configured to transmit the version of said electronic document with the most recent creation time-stamp preceding the requested time-stamp if a version of said electronic document does not exist with the requested time-stamp.

14.   The system according to claim 8, wherein said requested time-stamp is a relative time-stamp.

15.   An article of manufacture for accessing an electronic document, said electronic document having multiple versions, each of said versions being identified by a creation time-stamp indicating a creation time of said corresponding version, said article of manufacture comprising:

a computer readable medium having computer readable program code means embodied thereon, said computer readable program code means comprising program code means for causing a computer to:

receive a request for said electronic document, said request including a requested domain name and a requested time-stamp indicating a time associated with a desired version of said electronic document;

identify as a function of said creation time-stamp and said requested time-stamp a desired version of said electronic document having a creation time corresponding to said requested time-stamp; and

identify an address of said desired version of said electronic document corresponding to said requested time-stamp as a function of said requested time-stamp and said requested domain name, wherein a server identified by said requested domain name does not

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provide said desired version at a time of said request and said identified address has a redirected domain name that is different than said requested domain name.

16.   A method for resolving a requested domain name, said method
5   comprising the steps of:

receiving a request for an electronic document associated with said requested domain name, said electronic document having multiple versions, each of said versions being identified by a creation time-stamp indicating a creation time of said corresponding version, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document;

10   said electronic document;

identifying as a function of said creation time-stamp and said requested time-stamp a machine corresponding to a version of said requested domain name for a time period corresponding to said requested time-stamp, wherein a machine identified by said requested domain name does not provide said desired version at a time of said request and said identified

15   machine has a redirected domain name that is different than said requested domain name; and

transmitting an indication of said identified machine storing said electronic document corresponding to said requested time-stamp.

17   The method according to claim 16, wherein an address identifying
20   said electronic document includes said creation time-stamp.

18   The method according to claim 17, wherein said address is a Uniform Resource Locator ("URL").

25   19.   The method according to claim 18, wherein said Uniform Resource Locator ("URL") has an associated request header for indicating said requested time-stamp.

20.   The method according to claim 16, wherein said request is specified using a browser.

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21.   The method according to claim 16, wherein said requested time-stamp is a relative time-stamp.

22.   A system for resolving a requested domain name, said system comprising:

a memory for storing a database identifying a machine storing an electronic document corresponding to said requested domain name for a plurality of time periods; and

a processor operatively coupled to said memory, said processor configured to:

receive a request for an electronic document associated with said requested domain name, said electronic document having multiple versions, each of said versions being identified by a creation time-stamp indicating a creation time of said corresponding version, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document;

access said database as a function of said creation time-stamp and said requested time-stamp to identify a machine corresponding to a version of said domain name for a time period corresponding to said requested time-stamp, wherein a machine identified by said requested domain name does not provide said desired version at a time of said request and said identified machine has a redirected domain name that is different than said requested domain name; and

transmit an indication of said identified machine storing said electronic document corresponding to said requested time-stamp.

23.   The system according to claim 22, wherein an address identifying said electronic document includes said creation time-stamp.

24.   The system according to claim 23, wherein said address is a Uniform Resource Locator ("URL").

25.   The system according to claim 24, wherein said Uniform Resource Locator ("URL") has an associated request header for indicating said requested time-stamp.

26. The system according to claim 22, wherein said request is specified using a browser

27. The system according to claim 22, wherein said requested time-stamp is a relative time-stamp.

28. An article of manufacture for resolving a requested domain name, said article of manufacture comprising:

a computer readable medium having computer readable program code means embodied thereon, said computer readable program code means comprising program code means for causing a computer to:

receive a request for an electronic document associated with said requested domain name, said electronic document having multiple versions, each of said versions being identified by a creation time-stamp indicating a creation time of said corresponding version, said request including a requested time-stamp indicating a time associated with a desired version of said electronic document;

identify as a function of said requested time-stamp a server corresponding to a version of said domain name, wherein said version of said domain name is associated with a time period corresponding to said requested time-stamp, wherein a machine identified by said requested domain name does not provide said desired version at a time of said request and said identified machine has a redirected domain name that is different than said requested domain name;

identify a server associated with said domain name as a function of said requested time-stamp;

transmit an indication of said identified machine storing said electronic document corresponding to said time-stamp.

29. (Withdrawn) A method for identifying a domain of an electronic document, said method comprising the steps of:

receiving a request for said electronic document, said request including a

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requested time-stamp and a domain name, wherein said domain name is associated with a first domain for a first time period and a second domain for a second time period; and

identifying one of said first domain or said second domain utilizing a time indicated by said time-stamp

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30. (Withdrawn) The method according to claim 29, wherein said request includes an address identifying said electronic document.

31. (Withdrawn) The method according to claim 30, wherein said

10 address is a Uniform Resource Locator ("URL").

32. (Withdrawn) The method according to claim 31, wherein said Uniform Resource Locator ("URL") has an associated request header for indicating said requested time stamp

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33. (Withdrawn) The method according to claim 29, wherein said request is specified using a browser.

34. (Withdrawn) The method according to claim 29, wherein said

20 requested time-stamp is a relative time-stamp.

35. (Withdrawn) The method according to claim 29, further comprising the step of identifying an address of said electronic document utilizing said identified domain.

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EVIDENCE APPENDIX

There is no evidence submitted pursuant to § 1.130, 1.131, or 1.132 or entered by the Examiner and relied upon by appellant.

RELATED PROCEEDINGS APPENDIX

Decision on Appeal for Appeal No. 2004-0395 of United States Patent Application Serial No. 09/201,752 (Exhibit 1);

Decision on Appeal for Appeal No. 2004-1466 of United States Patent Application Serial No. 09/342,408 (Exhibit 2); and

Decision on Appeal for Appeal No. 2004-1128 of United States Patent Application Serial No. 10/099,121 (Exhibit 3).

EXHIBIT 1 1200-172

The opinion in support of the decision being entered
today was not written for publication and
is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PING-WEN ONG

Appeal No. 2004-0395
Application No. 09/201,752

ON BRIEF

Before THOMAS, BLANKENSHIP, and SAADAT, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's

final rejection of claims 1 through 17.

Representative claim 1 is reproduced below:

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1.   A method for persistent storage of an electronic document, said electronic document having multiple versions, said method comprising the steps of:

receiving a request for one of said versions of said electronic document, said request including a time-stamp indicating a creation time of a corresponding version;

modifying the requested version of said electronic document to update embedded hyperlinks in said requested version of said electronic document to incorporate the time-stamp of said requested version of said electronic document; and

transmitting said requested electronic document to a client.

The following references are relied on by the examiner:

Eisenberg et al. (Eisenberg)	5,504,879)	Apr. 02, 1996
Morris	5,634,052	May 27, 1997
Wlaschin	5,790,848	Aug. 04, 1998
Fehskens et al. (Fehskens)	5,832,224	Nov. 03, 1998
Kisor et al. (Kisor)	5,978,847	Nov. 02, 1999
		(filed Dec. 26, 1996)
Shnelvar	6,374,266	Apr. 16, 2002
	(effective filing date Jul. 28, 1998)	

"Archiving the Internet" (Kahle), issued November 4, 1996, pages 1-8.

"Welcome to The Libertarian Web" print out (Libertarian), http://www.archive.org, published Nov. 9, 1996, pages 1-11.

"Building a digital library for the future" print out (Archive 97), published January 26, 1997, pages 1-21.

All claims on appeal, claims 1 through 17, stand rejected under 35 U.S.C. § 103.

In a basic combination of references, the examiner relies upon Archive97 in view of Kahle to reject claims 1, 3, 4, 7, 9, 11, 12, 15 and 17.

To this basic combination of references, the examiner adds Libertarian, Shnelvar and Wlaschin as to claims 2 and 10. Also, to the basic combination of references, the examiner adds Libertarian and Kisor as to claims 5 and 13, adds Libertarian in view of Kisor, further in view of Fehskens, as to claims 8 and 16, and lastly adds Libertarian, Eisenberg and Morris as to claims 6 and 14.

Rather that repeat the positions of the appellant and the examiner, reference is made to the brief and reply brief for appellant's positions, and to the answer for the examiner's positions.

<div align="center">OPINION</div>

For the reasons set forth by the examiner in the answer, as embellished upon here, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103. According to appellant's grouping

of claims at the bottom of page 3 of the principal brief on appeal, and in view of appellant's arguments in the brief and reply brief, appellants presents arguments only as to independent claims 1, 9 and 17 on appeal, which recite corresponding limitations in method, system and article of manufacture claims, and claims 2 and 10, which recite corresponding subject matter as well. No arguments are presented as to the remaining stated rejections as noted earlier in this appeal. It is noted that appellant's arguments as to claims 6 and 14 at page 7 of the Principal Brief have been withdrawn at pages 2 and 3 of the Reply Brief, with the statement that appellant "concedes solely for purposes of limiting the issues on appeal that claims 6 and 14 stand and fall with the independent claims".

Turning first to the initial stated rejection encompassing each of the independent claims 1, 9 and 17 on appeal as being obvious over the collective teachings and showings of Archive97 in view of Kahle, appellant presents no arguments as to any other feature recited in representative claim 1 on appeal than the clause "receiving a request for one of said versions of said electronic document, said request including a time-stamp indicating a creation time of a corresponding version."

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Therefore, any arguments that appellant could have made with respect to the subject matter of this representative claim on appeal are considered waived.

It is further noted that the original recited version of independent claims 1, 9 and 17 on appeal did not recite the feature relating the time-stamp as indicating a creation time of the corresponding version. The feature of the time-stamp indicating "a creation time of a corresponding version" was added by amendment on September 7, 2001. There is no corresponding teaching directly related to the terms "creation time" in the originally filed disclosure. However, it is observed from our study of the specification as filed, that the concept of a time-stamp was disclosed as a/the time/date on which a version of a document was archived. Nevertheless, as we will expand upon subsequently, the examiner has provided evidence of the creation time of a document anyway.

Representative claim 1 does not specify what the terms "a corresponding version" refers to. Thus, it is not completely clear that the requested time-stamp does necessarily indicate the time-stamp associated with the requested version among the multiple version of the document listed in the preamble.

Additionally, there is no specificity related to the term
"time-stamp" as well as the terms "creation time" such that
either may appear to be identified solely on the basis of a year
and not necessarily month/day/year/actual time of day. The
included time stamp may also be included anywhere within the
request itself.

In terms of appellant's arguments beginning at the bottom of
page 3 of the principal brief on appeal, the statement of the
rejection at page 4 of the answer does indicate that the concept
of a time stamp merely indicates a time of a version of the
document in Archive97, and at page 6 of the answer the examiner
acknowledges that this reference does not disclose that the time
stamp indicates a creation time of the version of the document.
Thereafter, appellant urges that the label "Pres96" merely
indicates the subject matter of an archived document rather than
a time stamp. We agree with the examiner's responsive arguments
at page 12 of the answer that take issue with this view as
follows:

> Appellant's argument about "pres96" is subjective. To
> the examiner's point of view, "pres96" is not simply a
> label of a subject matter (emphasis supplied by
> appellant), it is a reference to 1996's archive of said
> subject matter. A timestamp does not have to be in

format such as 'mm/dd/yyyy' of any kind. In other word,
"pres96" is a timestamp included in the URL request of
such archive of 1996, and not of those of 1995 or 1997.
Kahle, a founder of Archive97, in fact suggests that
such timestamp be the creation time of such archive
(Kahle, page 5, fines 30-36). This is the simplest and
clearest interpretation of Kahle's in connection with
Archive97. If it had not been a creation time that was
included in the request for such archive, as already
implemented by Archive97, but a "copyright notice" as
argued by appellant, it would have taught away from
Archive97 and created probably more technical and legal
issues. By example, many web sites do not include a
copyright notice of their own, who would then create
one for these and how?

Although the original statement of the rejection indicated

that the examiner acknowledged that Archive97 did not disclose

that the time stamp indicates a creation time of the version, the

examiner's responsive arguments do indicate that such may be

included within the teachings of Archive97. As noted earlier in

this opinion, the claimed request does not specify the location

in which the time stamp or creation date information is located.

Appellant's second argument at pages 4 and 5 of the

principal brief on appeal is that Kahle discloses to the user a

service that helps the user understand when the web page was

created. Appellant acknowledges that Kahle "merely suggests that

enhancements to the Archive97 service might include a feature to

help 'users understand ... when it was created'." It thus
appears to us that appellant recognizes that Kahle suggests the
critical feature claimed regarding the date of the document.

Appellant's principal argument here, however, appears to be
that Kahle "does not disclose or suggest that a <u>request</u> for a
version of an electronic document should include a <u>time-stamp</u>
<u>indicating a creation time</u> of a corresponding version, as
explicitly required by each of the independent claims." As to
this argument, we agree with the examiner's observation at pages
12 and 13 of the answer that it would have been obvious in light
of the teachings of Kahle to include the documents' creation time
in the request for retrieval "since this would have helped the
user in navigation and understanding of when said documents were
created; as disclosed by Kahle."

Based upon observations in the topic "Providing Access and
New Services" at page 5 of the Kahle document, and especially the
discussion paragraph at lines 30 through 36 as relied upon by the
examiner, Kahle specifically teaches that new services should
enable users to understand when the document was created as noted
by appellant at the bottom of page 4 of the principal brief on
appeal. This paragraph suggests the ability to "subsequently"

directly request a document based upon the creation time of the document or a dated archived version of the document. As stated by Kahle, advantageously "with these services, people might be able to get a context to the information they are seeing and therefore know if they can trust it. Furthermore, the coordination of this meta-information and usage data can help build services for navigating the sea of data that is available."

Thus, based on the substantial evidence provided to us by the examiner in the statement of the rejection of the respective independent claims, we agree with the examiner's view that the subject matter as argued would have been obvious to the artisan within 35 U.S.C. § 103.

Our review of appellant's arguments as to this first stated rejection at pages 3 and 4 of the Reply brief are equally unpersuasive. Even appellant recognizes at the middle of page 3 of the Reply brief that Kahle's suggestion of creation time may be met by placing a date in the content itself, which is a position already argued by the examiner that we agree with as noted earlier in this opinion. We do not agree with appellant's additional urging again that Kahle does not disclose or suggest that a request for a version of the document be based upon a time stamp indicating a creation time of the corresponding version.

Appellant's arguments with respect to the additional references cited at pages 5 and 6 of the principal brief on appeal as to the creation time feature of representative claim 1 on appeal are equally unpersuasive since this feature has been taught plainly by Kahle as noted by the examiner's positions in the answer.

Lastly, appellant's arguments as to claims 2 and 10 on appeal at pages 6 and 7 of the principal brief and page 4 of the reply brief are also unpersuasive of patentability. The examiner's reliance upon the noted portions of column 10, lines 55 through 58 and lines 42 through 44 of Wlaschin are well taken. Appellant's principal arguments in the brief and reply brief as to the examiner's reliance upon these teachings belie an understanding of the reference as well as the subject matter of his own claims 2 and 10 on appeal.

Wlaschin's invention as indicated in the title of his patent relates to updated information in a shared file environment, which is more specifically identified as a client-server environment throughout the textual discussion in this reference as well as shown in Figures 2 and 3. Rather than teaching away

as argued by appellant in the brief and reply brief, Wlaschin is

clearly in the same field of invention as disclosed and claimed

and the claims themselves permit and do not exclude the updating

concept set forth in Wlaschin at column 10. Beginning at line 15

of column 10, Wlaschin discusses the showing of Figure 11 which

clearly illustrates that pointers exist to prior or earlier

versions of the same document/object, and the numerical

identifier 272 indicates that a timestamp is part of the object

identifier which is discussed to indicate when the object 262 was

created. Clearly, Wlaschin teaches the artisan to understand

that it was known in the art to store a pointer to a previous

version of an electronic document if the previous document

version was "substantially identical", as claimed.

We are unpersuaded by appellant's urging at page 4 of the

reply brief, for example, that the word "updated" indicates that

the documents are "**not** substantially identical." We do not agree

with this statement since appellant does not apparently

appreciate the nature of the claimed subject matter. The term

"substantially identical" is not coextensive with not updated.

In fact the term "substantially identical", as claimed, is

coextensive with the concept of updating, which in turn is

consistent with the disclosed concept of the invention such as

the discussion at the bottom of specification page 8 that

previous archived versions of one document may differ from

present approaches only "slighly." Although other portions of

the disclosed invention clearly indicate the previous document is

identical to (an unclaimed feature) the present document, this

noted teaching indicates that they are substantially identical as

claimed. An updated version of the previous document clearly is

within and coextensive with the notion of the document being

"substantially identical" to the extent recited in dependent

claims 2 and 10 on appeal.

From our study of Wlaschin and the examiner's positions, we

are also in agreement with the examiner's views expressed in the

paragraph bridging pages 13 and 14 of the answer:

> Examiner respectfully disagrees. First Wlaschin's
> teaching does not mention to store the pointer "only"
> if a document is updated from the previous version.
> Second, appellant's claim of "substantially identical"
> versions of a document clearly indicates an update
> of one version from a previous one. Either way,
> Wlaschin's teaching does not teach away from
> appellant's claims. A combination of Shnelvar and
> Wlashchin does in fact teach "storing a pointer to a
> previous version of said electronic document if said
> previous version of said electronic document is
> substantially identical" as discussed in claims 2 and
> 10.

We observe also that appellant has presented no arguments as to the first stated rejection that Archive97 and Kahle are not properly combinable within 35 U.S.C. § 103, only in effect, that once combined, they do not yield the subject matter of representative claim 1 on appeal. A similar observation is made with respect to the additional reliance upon Libertarian and Shnelvar as to the second stated rejection of independent claims 2 and 10 on appeal.

In view of the foregoing, the decision of the examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

<u>AFFIRMED</u>

JAMES D. THOMAS
Administrative Patent Judge)
)
)
)
)
)
HOWARD B. BLANKENSHIP
Administrative Patent Judge)
)
)
)
MAHSHID D. SAADAT
Administrative Patent Judge)

) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES

JDT/vsh

Appeal No. 2004-0395
Application No. 09/201,752

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EXHIBIT 2   1200-284

The opinion in support of the decision being entered today was
<u>not</u> written for publication and is <u>not</u> binding precedent of the
Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

FEB 25 2005

<u>Ex parte</u> PING-WEN ONG

Appeal No. 2004-1466
Application 09/342,408

ON BRIEF

Before THOMAS, JERRY SMITH, and BLANKENSHIP, <u>Administrative
Patent Judges</u>.

JERRY SMITH, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

This is a decision on the appeal under 35 U.S.C. § 134
from the examiner's rejection of claims 1-25, which constitute
all the claims in the application.

The disclosed invention pertains to a method and
apparatus for providing an electronic document having multiple

versions, each of said versions having a time-stamp. Requests

for the electronic document can include a variable time-stamp so

that a plurality of versions of the document corresponding to the

variable time-stamp can be identified.

Representative claim 1 is reproduced as follows:

1. A method for providing an electronic document, said
electronic document having multiple versions, each of said
versions having a time-stamp, said method comprising the steps
of:

receiving a request for said electronic document, said
request including a variable time-stamp; and

identifying versions of said electronic document
corresponding to said variable time-stamp.

The examiner relies on the following references:

George	5,832,478	Nov. 03, 1998
Sawashima et al. (Sawashima)	5,946,699	Aug. 31, 1999
		(filed Aug. 04, 1997)
Kisor et al. (Kisor)	5,978,847	Nov. 02, 1999
		(filed Dec. 26, 1996)
Tagawa	5,991,773	Nov. 23, 1999
		(filed Apr. 29, 1997)
Allard et al. (Allard)	5,991,802	Nov. 23, 1999-
		(filed Nov. 27, 1996)

Kolb-Proust Archive, "Search the Kolb-Proust Archive Documents,"
http://gateway.library.uiuc.edu/kolbp/Search1.html, 1997, pages
1-16.

Compose Search, "How to Compose a Search," 1997, pages 1-2.

The following rejections have been made by the examiner:

1. Claims 9, 11, 12, 21, 23 and 24 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.

2. Claims 1-3, 5, 6, 13-15, 17, 18 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Tagawa.

3. Claims 4 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Tagawa in view of Kisor.

4. Claims 4 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Tagawa in view of Allard.

5. Claims 8, 9, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Tagawa in view of Sawashima.

6. Claims 8, 9, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Tagawa in view of Kolb.

7. Claims 7, 10, 19 and 22 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over the teachings of Tagawa in
view of George.

8. Claims 11 and 23 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over the teachings of Tagawa in
view of George and Kolb.

9. Claims 12 and 24 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over the teachings of Tagawa in
view of George, Kolb and Compose a Search.

Rather than repeat the arguments of appellant or the
examiner, we make reference to the briefs and the answer for the
respective details thereof.

OPINION

We have carefully considered the subject matter on
appeal, the rejections advanced by the examiner and the evidence
of anticipation and obviousness relied upon by the examiner as
support for the prior art rejections. We have, likewise,
reviewed and taken into consideration, in reaching our decision,
the appellant's arguments set forth in the briefs along with the
examiner's rationale in support of the rejections and arguments
in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon supports the examiner's rejection of claims 8, 9, 20 and 21. We reach the opposite conclusion with respect to the examiner's rejection of all the other claims on appeal. Accordingly, we affirm-in-part. We also enter a new ground of rejection using our authority under 37 CFR § 41.50(b).

With respect to the rejection of claims 9, 11, 12, 21, 23 and 24 under the second paragraph of 35 U.S.C. § 112, appellant has indicated that he is not appealing the rejection, but instead, has filed a proposed amendment to the claims [supplemental brief, page 3]. The examiner has indicated that the amendment will be considered after this appeal is decided [answer, page 16]. Therefore, since the rejection under 35 U.S.C. § 112 has not been appealed by appellant, we sustain this rejection of claims 9, 11, 12, 21, 23 and 24 on a purely - technical basis.

We now consider the rejection of claims 1-3, 5, 6, 13-15, 17, 18 and 25 under 35 U.S.C. § 102(e) as being anticipated by Tagawa. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well

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as disclosing structure which is capable of performing the

recited functional limitations. RCA Corp. v. Applied Digital

Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed.

Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and

Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ

303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how he reads the claimed

invention on the disclosure of Tagawa [answer, pages 5-7]. With

respect to independent claims 1, 13 and 25, appellant argues that

Tagawa fails to disclose that the request for an electronic

document includes a variable time-stamp as that term is defined

in the specification [brief, pages 4-5]. The examiner responds

that the timestamp in Tagawa is a variable time-stamp as claimed

[answer, page 17]. Appellant responds that the timestamp taught

by Tagawa is for a specific time rather than a variable time-

stamp as claimed [reply brief, pages 2-3].

We will not sustain the examiner's anticipation rejection

based on Tagawa. As noted by appellant, the specification

discusses a time stamp, and then notes that "variable time stamps

can be utilized in accordance with the present invention to

indicate a number of different dates, such as a date range or a

recurring period of time" [page 2, lines 26-27, emphasis added].

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Thus, a variable time-stamp results in requesting a number of different dates. We agree with appellant that the request in Tagawa includes a single fixed date as the time stamp. Although earlier or later versions of the accessed document can be retrieved using the history buttons in Tagawa, the request _per se_ includes a fixed time stamp rather than a variable time-stamp as claimed. Thus, Tagawa does not disclose each and every feature of the claimed invention.

We now consider the various rejections under 35 U.S.C. § 103. In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one -- having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044,

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1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825

(1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.,

776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert.

denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore

Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

These showings by the examiner are an essential part of complying

with the burden of presenting a prima facie case of obviousness.

Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444

(Fed. Cir. 1992). If that burden is met, the burden then shifts

to the applicant to overcome the prima facie case with argument

and/or evidence. Obviousness is then determined on the basis of

the evidence as a whole and the relative persuasiveness of the

arguments. See Id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ

685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472,

223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d

1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments

actually made by appellant have been considered in this decision.

Arguments which appellant could have made but chose not to make

in the brief have not been considered and are deemed to be waived

[see 37 CFR § 41.37(c)(1)(vii)(2004)].

Appellant's only arguments with respect to the rejections under 35 U.S.C. § 103 are that none of the additionally applied references teach or suggest the variable time-stamp as required by the claims [brief, pages 5-7]. The examiner responds that Sawashima and Kolb teach searching using a variable date range and, thus, teach a variable time-stamp as claimed [answer, pages 17-18]. Appellant responds that none of the additionally cited references, including Sawashima and Tagawa, disclose or suggest the variable time-stamp as claimed [reply brief, pages 3-4].

As noted above, appellant does not argue the patentability of the individual claims rejected under 35 U.S.C. § 103 based on the limitations of those claims, but only argues that the secondary or tertiary references do not teach a variable time-stamp as claimed. We disagree with appellant's argument at least with respect to Sawashima and Kolb. With respect to Sawashima, it is stated that

> As a method of designating the
> version, in addition to a method of
> clearly designating the version
> No., a method of designating a date
> or date range is available. In the
> latter method, the version
> management unit provides data
> corresponding to the designated
> date or the date range [column 13,
> lines 15-19]

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Thus, Sawashima clearly teaches that data can be accessed using a date range as a variable time-stamp. With respect to Kolb, a date range for searching for documents is clearly shown on the front page of the document. Thus, Kolb also clearly teaches that data can be accessed using a date range as a variable time-stamp. When the teachings of Tagawa and either Sawashima or Kolb are considered together, we are of the view that the artisan would have been motivated to modify the document access device of Tagawa to include a variable time-stamp as taught by Sawashima or Kolb. This modification would have allowed the artisan to access a plurality of document versions in Tagawa without having to use the forward and reverse history buttons. Therefore, we find that it would have been obvious to the artisan to replace the fixed timestamp of Tagawa with a variable time-stamp as taught by Sawashima and Kolb to obtain the advantages taught by Sawashima and Kolb.

Based on this finding, any claims that are rejected based on Tagawa and Sawashima or Tagawa and Kolb are obvious for the reasons just discussed. Since claims 8, 9, 20 and 21 are so rejected, we sustain the examiner's rejection of these claims.

In summary, we have sustained the examiner's rejection of claims 9, 11, 12, 21, 23 and 24 under 35 U.S.C. § 112. We have

not sustained any of the examiner's rejections based on prior art except for the rejections of claims 8, 9, 20 and 21 based on Tagawa and Sawashima or Tagawa and Kolb. Therefore, the decision of the examiner rejecting claims 1-25 is affirmed-in-part.

We make the following new ground of rejection using our authority under 37 CFR § 41.50(b). We reject independent claims 1, 13 and 25 under 35 U.S.C. § 103(a) as being unpatentable over the collective teachings of Tagawa and either Sawashima or Kolb. Since these claims are broader than claims 8, 9, 20 and 21 discussed above, the new rejection of these claims is based on the same rationale discussed above in sustaining the rejection of claims 8, 9, 20 and 21. We have only considered the independent claims for this new ground of rejection. We leave it to the examiner to determine the extent to which additional new rejections against the other claims on appeal may be appropriate.

Regarding the affirmed rejection(s), 37 CFR § 41.52(a)(1) provides "[a]ppellant may file a single request for rehearing within two months from the date of the original decision of the Board."

In addition to affirming the examiner's rejection(s) of one or more claims, this decision contains a new ground of rejection pursuant to 37 CFR § 41.50(b) (effective September 13,

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2004, 69 Fed. Reg. 49960 (August 12, 2004), 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)). 37 CFR § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 CFR § 41.50(b) also provides that the appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

> (1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner. . . .

> (2) *Request rehearing.* Request that the proceeding be reheard under § 41.52 by the Board upon the same record. . . .
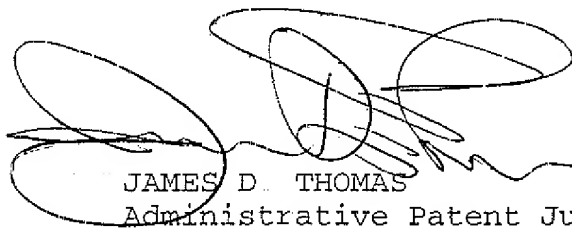
Should the appellant elect to prosecute further before the examiner pursuant to 37 CFR § 41.50(b)(1), in order to preserve the right to seek review under 35 U.S.C. §§ 141 or 145 with respect to the affirmed rejection, the effective date of the affirmance is deferred until conclusion of the prosecution before the examiner unless, as a mere incident to the limited prosecution, the affirmed rejection is overcome
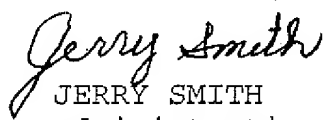
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If the appellant elects prosecution before the examiner and this does not result in allowance of the application, abandonment or a second appeal, this case should be returned to the Board of Patent Appeals and Interferences for final action on the affirmed rejection, including any timely request for rehearing thereof.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

<u>AFFIRMED-IN-PART</u>
37 CFR § 41.50(b)

JAMES D. THOMAS)
Administrative Patent Judge)
)
)
)
JERRY SMITH) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
)
)
)
HOWARD B. BLANKENSHIP)
Administrative Patent Judge)

JS:pgc

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Appeal No. 2004-1466
Application No. 09/342,408

Ryan Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06430

EXHIBIT 3   12(N-102)

The opinion in support of the decision being entered today was <u>not</u> written for publication in a law journal and is <u>not</u> binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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DOCKETED

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DUE: 9/21/05

BY: [signature]

Respond to Non favorable decision

Ex parte PING-WEN ONG

Appeal No. 2004-1128
Application No. 10/099,121

ON BRIEF

MAILED

JUL 2 1 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before BARRETT, RUGGIERO, and GROSS, *Administrative Patent Judges.*

GROSS, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 15, which are all of the claims pending in this application.

Appellant's invention relates to a method for providing an electronic document, the electronic document having multiple versions each having a time-stamp indicating a creation time thereof. The method includes steps of receiving a request for one version of the electronic document, the request including a relative time-stamp indicating a time offset from a predefined

time and transmitting the version of the electronic document

corresponding to the relative time-stamp. Claim 1 is

illustrative of the claimed invention, and it reads as follows:

1. A method for providing an electronic document, said
electronic document having multiple versions, each of said
versions having a time-stamp indicating a creation time of a
corresponding version, said method comprising the steps of:

receiving a request for one of said versions of said
electronic document, said request including a relative time-stamp
indicating a time offset from a predefined time; and

transmitting said version of said electronic document
corresponding to said relative time-stamp.

The prior art references of record relied upon by the

examiner in rejecting the appealed claims are:

Eisenberg et al. (Eisenberg)   5,504,879   Apr. 02, 1996
Morris   5,634,052   May 27, 1997
Wlaschin   5,790,848   Aug. 04, 1998
Fehskens et al. (Fehskens)   5,832,224   Nov. 03, 1998
Kisor et al. (Kisor)   5,978,847   Nov. 02, 1999
                                          (filed Dec. 26, 1996)
Shnelvar   6,374,266   Apr. 16, 2002
                               (effectively filed Jul. 28, 1998)

"Building a digital library for the future" printout (Archive97),
http://archive.org, published 01/26/1997, pages 1-21.
(Archive97)

Kahle, "Archiving the Internet," issued 11/1996, pages 1-8.

Claims 1, 3, 4, 6, 8, 10, 11, 13, and 15 stand rejected

under 35 U.S.C. § 103 as being unpatentable over Archive97 in

view of Kahle and Fehskens.

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Claims 2 and 9 stand rejected under 35 U.S.C. § 103 as being
unpatentable over Archive97 in view of Kahle, Fehskens, Shnelvar,
and Wlaschin.

Claims 5 and 12 stand rejected under 35 U.S.C. § 103 as
being unpatentable over Archive97 in view of Kahle, Fehskens, and
Kisor.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103 as
being unpatentable over Archive97 in view of Kahle, Fehskens,
Eisenberg, and Morris.

Reference is made to the Examiner's Answer (Paper No. 10,
mailed July 11, 2003) for the examiner's complete reasoning in
support of the rejections, and to the appellant's Brief (Paper
No. 8, filed May 21, 2003) and Reply Brief (Paper No. 14, filed
March 4, 2004) for the appellant's arguments thereagainst.

OPINION

We note that appellant indicates on page 3 of the Brief that
claims 2 and 9 and claims 7 and 14 do not stand or fall with the
rest of the claims. In accordance with this indication,
appellant provides separate arguments regarding the additional
references applied against claims 2 and 9 and claims 7 and 14.
However, appellant further indicates on page 2 of the Reply Brief

that "[a]ppellant concedes solely for purposes of limiting the

issues on appeal that claims 7 and 14 stand and fall with the

independent claims." No arguments have been proffered as to the

combinability of Kisor with Archive97, Kahle, and Fehskens for

claims 5 and 12. Thus, the only arguments we have before us as

to claims 1, 3 through 8, and 10 through 15 are those directed to

the rejection of independent claim 1. Therefore, in accordance

with 37 C.F.R. § 1.192(c)(7), which was in effect at the time of

the Brief, we will treat claims 1, 3 through 8, and 10 through 15

as a single group, with claim 1 as representative, and claims 2

and 9 as a second group, with claim 2 as representative.

We have carefully considered the claims, the applied prior

art references, and the respective positions articulated by

appellant and the examiner. As a consequence of our review, we

will affirm the obviousness rejections of claims 1 through 15.

The examiner asserts (Answer, pages 4-5) 1) that page 9 of

Archive97 shows the January 26, 1997, version of www.archive.org,

which allows people to visit archived versions of Web sites,

2) that page 11 shows the dialogue box that appears after

clicking on "The Libertarian Web" at line 21 of page 9, and

3) that page 12 shows the URL for "The Libertarian Web." The

examiner concludes that the URL includes a time-stamp because it

includes in the address "pres96." Appellant argues (Brief, page 4, and Reply Brief, pages 3-4) that "'Pres96' merely indicates the subject matter of the archived document." Appellant further states that "the Examiner has acknowledged that Archive97 does not disclose that the 'time-stamp' indicates a *creation time* of said version."

We agree with appellant that "pres96" indicates the subject matter and not the creation time of the document. However, the examiner is correct that the URL for "The Libertarian Web" on page 12 of Archive97 includes a time-stamp. Specifically, the string of numbers "199710110505541" indicates that the website shown is the version that existed on October 11, 1997, at 5:05 and 41 seconds in the morning. Further, as shown on page 11, clicking on "The Libertarian Web," or rather requesting the version of the website that relates to the presidential election of '96, brings up a dialogue box which shows that the URL for that website includes a time-stamp. In other words, a request for that version of the website includes a time-stamp.

The examiner (Answer, page 5) applies Kahle for a teaching to include a time-stamp indicating a creation time of the requested webpage. Appellant argues (Reply Brief, page 4) that Kahle fails to suggest that "a *request* for a version of an

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electronic document should include a *time-stamp indicating a creation time* of a corresponding version." Further, appellant argues (Brief, pages 4-5) that Kahle fails to teach a "relative time-stamp indicating a time offset from a predefined time."

As explained **supra**, Archive97 not only includes URLs with time-stamps indicating a creation time of a webpage, but also includes requests for websites wherein the requests include the time-stamps. Accordingly, Kahle is merely cumulative regarding a time-stamp indicating a creation time of a webpage and a request for the webpage including the time-stamp. Regarding relative time-stamps, the examiner applied Fehskens, not Kahle.

Appellant argues (Brief, page 5) that "the requests in Fehskens are **not** for *electronic documents having multiple versions,* where each of the versions have a 'time-stamp indicating a *creation time* of said corresponding version.'" Appellant continues, "Fehskens interprets a request for information 'at or before' a given time, as a 'request for **any** information with a time stamp at or before the given time,'" rather than just the one version that corresponds to a relative

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time-stamp. Appellant adds (Reply Brief, page 3) that the
relative time-stamps in Fehskens of "at or before," "at,"
"every," and "yesterday" return all information with a time-stamp
satisfying the constraint, not one version with a time-stamp that
represents a time offset from a predefined time, as required by
the claims.

As indicated by the examiner (Answer, page 12), Fehskens
discloses (column 30, lines 44-48) that for "historical data
stored in historical data file, the timestamp indicates the
instant of time at which a given data item had a particular
value. . . . [A] timestamp can be considered as a key or index."
Fehskens continues (column 30, lines 48-50) that "[a] scope of
interest time specification **123** may be used to request the
retrieval of a particular piece of stored information with a
given key or index." Fehskens explains (column 30, lines 62-65)
that such "[t]ime scopes of interest can be indicated by either
an absolute instant, a sequence of absolute instants, an interval
(start time 'START' and duration 'DUR'), a repetition of
instants, or a repetition of an interval." Further, "[i]ntervals
whose begin and end points are equal resolve into instants (e.g.
(TODAY, TODAY))" and "[i]ntervals in the past may have begin

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points denoted by the keyword YESTERDAY, or an absolute time in the past" (see column 31, lines 18-19).

Thus, Fehskens teaches that a time-stamp indicating a creation time can be used to index a particular piece of information stored in an archive, that a scope of interest time may be used to request the piece of information from the archive, and that a scope of interest time may be either an interval or a particular instant. Fehskens suggests that a particular instant can be represented either by an absolute time or by an interval that begins and ends with the a relative term such as "yesterday." In other words, Fehskens suggests that a relative time-stamp representing an absolute time may be used to request from an archive a document corresponding to the time-stamp. Accordingly, we will sustain the rejection of claim 1 and the claims grouped therewith, claims 3 through 8 and 10 through 15.

Claims 2 and 9 require a pointer to a previous version of the electronic document when the previous version is "substantially identical." The examiner adds Shnelvar and Wlaschin to the base combination for the additional limitation. Appellant provides no arguments regarding Shnelvar in the Brief. In the Reply Brief (page 5) appellant states that "[t]he Examiner acknowledges that Snelvar does not explicitly disclose

'substantially identical' files." Appellant asserts (Brief, page 7 with similar statements at page 5 of the Reply Brief) that Wlaschin teaches a pointer to a previous version of the document "if said electronic document is **updated** from the previous version. . . . Thus, Wlaschin teaches away from the present invention" (emphasis ours). Appellant thus concludes that neither Shnelvar nor Wlaschin teaches the limitation of claims 2 and 9.

First, we note that the examiner states (Answer, page 7) that Shnelvar teaches using a pointer to a previous version when there is a duplicate document so as to reduce the amount of material stored. Appellant does not contest the combination of Shnelvar with the main references to teach a pointer in place of a duplicate copy of a document.

Second, we note that the examiner explains (Answer, pages 7-8) that Wlaschin is required for the rejection because "substantially identical" means that there has been an update such that the two documents are different (i.e., not duplicates). Since appellant's argument that Wlaschin teaches away from using a pointer for documents that are "substantially identical," appellant apparently interprets the phrase "substantially identical" to mean duplicates (and/or near duplicates).

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Therefore, Shnelvar satisfies the limitation of claims 2 and 9, with Wlaschin being merely cumulative. Therefore, we will sustain the rejection of claims 2 and 9 over Archive97, Kahle, Fehskens, Shnelvar, and Wlaschin.

CONCLUSION

The decision of the examiner rejecting claims 1 through 15 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

LEE E. BARRETT Administrative Patent Judge	)
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	)
JOSEPH F. RUGGIERO Administrative Patent Judge	) BOARD OF PATENT
	) APPEALS
	) AND
	) INTERFERENCES
	)
ANITA PELLMAN GROSS Administrative Patent Judge	)
	)

AGP/rwk

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Appeal No. 2004-1128
Application No. 10/099,121

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